

UNITED STATES COURT OF APPEALS
FOR THE 5TH CIRCUIT

RE: NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION
CIVIL DOCKET NO. 3:97-CV-0960-14

JEFFREY HESS,

PETITIONER

VERSUS

JANIE COCKRELL, DIR. TDCJ-ID,

RESPONDENT

MOTION TO WITHDRAW
MOTION FOR LEAVE TO PRESENT
SUCCESSIVE PETITION

U.S. COURT OF APPEALS
FILED

FEB 22 2002

CHARLES R. FULBRUGE III
CLERK

I

TO THE HONORABLE JUDGES OF SAID COURT:

COMES NOW JEFFREY HESS, PETITIONER AND RESPECT-
FULLY MOVES THE COURT FOR LEAVE TO WITHDRAW MOTION
FOR LEAVE TO PRESENT SUCCESSIVE PETITION.

PETITIONER WOULD SHOW THE COURT THE FOLLOWING:

II

BRIEF IN SUPPORT

ON FEBRUARY 14, 2002, PETITIONER FILED A MOTION
FOR LEAVE TO PRESENT SUCCESSIVE PETITION WITH THE
INSTANT COURT BY PLACING SAME IN THE INSTITUTIONAL MAIL
SYSTEM (US MAIL), FIRST CLASS POSTAGE PREPAID AND SERVED
RESPONDENT WITH A TRUE AND CORRECT COPY OF SAME. HOWEVER,

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Case 3:97-cv-00960-H, Document 92 Filed 03/04/02 Page 2 of 5 PageID 265
BEING THAT PETITIONER HAS LIMITED LEGAL KNOWLEDGE AND NO
ACCESS TO FEDERAL PRACTICE GUIDES, FEDERAL REPORTERS,
OR THE RULES GOVERNING 28 U.S.C. § 2244 AND § 2254. PETI-
TIONER HAS SINCE LEARNED (ON FEBRUARY 16, 2000) THAT SAID
MOTION WAS IMPROPERLY FILED AND LACKING REQUIRED
ATTACHMENTS.

BEARING THE COURT'S FOREBEARANCE, PETITIONER BE-
LIEVES IT TO BE IN THE BEST INTEREST OF ALL PARTIES AND
JUDICIAL ECONOMY, FOR THE COURT TO ALLOW PETITIONER TO
WITHDRAW SAID MOTION AND TO REFILE A PROPERLY COM-
POSED AND COMPLETE MOTION FOR LEAVE TO PRESENT suc-
CESSIVE PETITION.

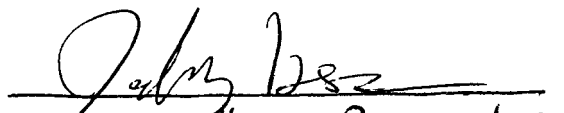
III

PRAYER

WHEREFORE, PREMISES CONSIDERED, PETITIONER
PRAYS THIS COURT GRANT LEAVE TO WITHDRAW SAID MOTION
FOR LEAVE TO PRESENT SUCCESSIVE PETITION; OR, IN THE
ALTERNATIVE, UNFILE SAID MOTION; OR, AGAIN IN THE
ALTERNATIVE, DISMISS SAID MOTION WITHOUT PREJUDICE.
PETITIONER FURTHER PRAYS THIS COURT ALLOW PETITIONER
TO REFILE A PROPERLY COMPOSED AND COMPLETE MOTION FOR
LEAVE TO PRESENT SUCCESSIVE PETITION.

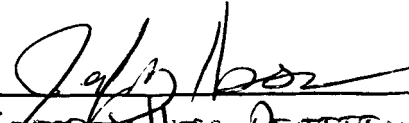
BE IT SO MOVED AND PRAYED THIS 19TH DAY OF FEBRUARY,
2002.

RESPECTFULLY SUBMITTED,


JEFFREY HESS, PETITIONER

VERIFICATION


I, JEFFREY HESS, PETITIONER IN THE FOREGOING, BEING PRESENTLY INCARCERATED IN THE CLAYTON TRAILER FACILITY OF TDCS-ID IN FAYETTE COUNTY, TEXAS, BY MY SIGNATURE BELOW DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, AND THAT SAME HAS BEEN PLACED IN THE INSTITUTIONAL MAIL SYSTEM (US MAIL), FIRST CLASS POSTAGE PREPAID ON THIS 19TH DAY OF FEBRUARY 2002.


JEFFREY HESS, PETITIONER

CERTIFICATE OF SERVICE

I, JEFFREY HESS, PETITIONER IN THE FOREGOING, BY MY SIGNATURE BELOW CERTIFY THAT A TRUE AND CORRECT COPY OF THE FOREGOING MOTION FOR LEAVE TO WITHDRAW HAS BEEN SERVED ON RESPONDENT BY PLACING SAME IN THE INSTITUTIONAL MAIL SYSTEM (US MAIL), FIRST CLASS POSTAGE PREPAID, AND ADDRESSED AS SHOWN BELOW ON THIS 19TH DAY OF FEBRUARY, 2002.

MICHELLE D. ROCHE,
ASST. ATTY. GEN. OF TEXAS
PO BOX 12548, CAPITOL STATION
AUSTIN, TX 78711


JEFFREY HESS, PETITIONER

No. 02-10203

In Re: JEFFREY HESS

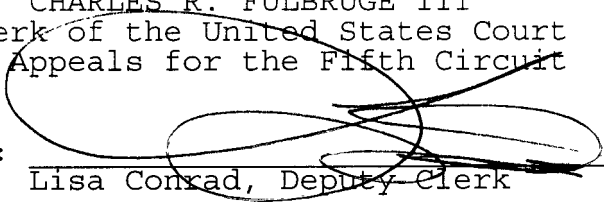
Movant

ENTRY OF CLOSING

Pursuant to the foregoing motion, the transferred second or successive 28 U.S.C. § 2254 petition was closed this 27th day of February, 2002.

CHARLES R. FULBRUGE III
Clerk of the United States Court
of Appeals for the Fifth Circuit

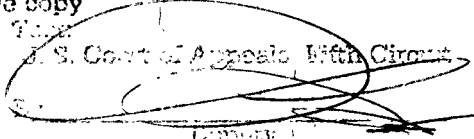
By:


Lisa Conrad, Deputy Clerk

FOR THE COURT - BY DIRECTION

DIS-5

A true copy


Clerk, U.S. Court of Appeals, Fifth Circuit

New Orleans, Louisiana

FEB 27 2002

FIFTH CIRCUIT
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III
CLERK

TEL. 504-310-7700
600 CAMP STREET
NEW ORLEANS, LA 70130

February 27, 2002

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 02-10203 In Re: Hess
USDC No. *3197CV960-H*


3197CV960-H

The court has taken the following action in this case: the motion to withdraw motion to file a successive habeas petition is GRANTED.

Sincerely,

CHARLES R. FULBRUGE III, Clerk

By:


Lisa Conrad, Deputy Clerk
504-310-7697

Mr Jeffrey Hess
Ms Karen S Mitchell, Clerk

MOT-2

